

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 22-0331V

JOHN CHERRY,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: March 4, 2025

Laura Levenberg, Muller Brazil, LLP, Dresher, PA, for Petitioner.

Mary Novakovic, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION ON JOINT STIPULATION¹

On March 28, 2022, John Cherry filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that he suffered a shoulder injury related to vaccine administration (“SIRVA”) resulting from an influenza vaccine received on November 2, 2020. Petition at 1; Stipulation, filed March 3, 2025, at ¶¶ 2-4. Petitioner further alleges that the vaccine was administered in the United States, his SIRVA symptoms persisted for more than six months, and neither Petitioner, nor any other party, has ever filed any action, or received compensation in the form of an award or settlement, for Petitioner’s vaccine-related injury. Petition at ¶¶ 1, 14-16; Stipulation at ¶¶ 3-5. “Respondent denies that petitioner sustained a Table SIRVA injury; denies that the vaccine caused petitioner’s alleged shoulder injury, or any other injury; and denies that his current condition is a sequela of a vaccine-related injury.” Stipulation at ¶ 6.

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims’ website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

Nevertheless, on March 3, 2025, the parties filed the attached joint stipulation, stating that a decision should be entered awarding compensation. I find the stipulation reasonable and adopt it as my decision awarding damages, on the terms set forth therein.

Pursuant to the terms stated in the attached Stipulation, **I award** the following compensation:

- a. **A lump sum of \$13,590.00, to be paid through an ACH deposit to Petitioner's counsel's IOLTA account for prompt disbursement to Petitioner.**
- b. **A lump sum of \$1,510.02 representing reimbursement of a Medicaid lien for services rendered to Petitioner, in the form of a check payable jointly to Petitioner and the New York City Department of Social Services:**

New York City
Human Resources Administration
Division of Liens and Recovery
RE: Case Number 1002671
P.O. Box 414799
Boston, MA 02241-4799

Petitioner agrees to endorse this check to the Department of Social Services.

Stipulation at ¶ 8. These amounts represent compensation for all items of damages that would be available under Section 15(a). *Id.*

I approve the requested amount for Petitioner's compensation. In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of Court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

JOHN CHERRY,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 22-331V
Chief Special Master Corcoran
ECF

STIPULATION

The parties hereby stipulate to the following matters:

1. On March 28, 2022, John Cherry ("petitioner") filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10 to -34 (the "Vaccine Program"). The petition seeks compensation for injuries allegedly related to petitioner's receipt of an influenza ("flu") vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3(a).
2. Petitioner received the flu vaccine in his left arm on November 2, 2020.
3. The vaccine was administered within the United States.
4. Petitioner alleges that he suffered from a shoulder injury related to vaccine administration ("SIRVA") as a result of receiving the flu vaccine. Petitioner alleges that he experienced the residual effects of the alleged condition for more than six months.
5. Petitioner represents that there has been no prior award or settlement of a civil action for damages as a result of his condition.

